

DEC 12 2005

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

CARLOS SANTIAGO-ORTIZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 02-70604

Agency No. A77-160-691

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005**

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Carlos Santiago-Ortiz, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") affirmance of an Immigration Judge's ("IJ") denial of his applications for asylum and withholding of removal.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence and may reverse only if the evidence compels a contrary conclusion. *Rostomian v. INS*, 210 F.3d 1088, 1089 (9th Cir. 2000). We deny the petition.

Substantial evidence supports the IJ's and BIA's conclusion that petitioner failed to establish past persecution or a well-founded fear of future persecution. Because petitioner testified that he did not know who killed his father in 1978, and there is no evidence that the killing occurred based on political opinion, and petitioner remained in Mexico for more than eight years unharmed, petitioner's asylum claim fails. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992).

Petitioner's contention that the BIA's decision was a violation of his rights is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 850-51 (9th Cir. 2003).

Because petitioner failed to raise his withholding of removal claim in his opening brief, this claim is waived. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

The voluntary departure period is stayed pursuant to *Desta v. Ashcroft*, 365 F.3d 741, 750 (9th Cir. 2004).

PETITION DENIED.

